

UNITED STATES DISTRICT COURT-DISTRICT OF NEW HAMPSHIRE
[via transfer designation to UNITED STATES DISTRICT COURT- DISTRICT OF MAINE]
CIVIL ACTION NO: 1:24-cv-00360

ANDRE BISASOR, et. al. v. NEW HAMPSHIRE JUDICIAL BRANCH, et. al

**NOTICE OF PLAINTIFF'S NON-CONSENT TO PROCEED BEFORE MAGISTRATE
JUDGE AND PREFERENCE FOR MOTIONS TO BE HEARD BY THE ASSIGNED
DISTRICT COURT JUDGE**

1. In accordance with Fed. R. Civ. P. 73, 28 U.S.C. § 636(c), and Local Rule 73.1(b)(2), the plaintiffs hereby advise the court that we do not consent to the proceeding with a Magistrate Judge in deciding motions filed in this case.

2. The federal rules civil procedure state:

Rule 73. Magistrate Judges: Trial by Consent; Appeal

(a) Trial by Consent. When authorized under 28 U.S.C. §636(c), **a magistrate judge may, if all parties consent, conduct a civil action or proceeding**, including a jury or nonjury trial. A record must be made in accordance with 28 U.S.C. §636(c)(5).

(b) Consent Procedure.

(1) In General. When a magistrate judge has been designated to conduct civil actions or proceedings, **the clerk must give the parties written notice of their opportunity to consent under 28 U.S.C. §636(c)**. To signify their consent, the parties must jointly or separately file a statement consenting to the referral. A district judge or magistrate judge may be informed of a party's response to the clerk's notice only if all parties have consented to the referral.

(2) Reminding the Parties About Consenting. A district judge, magistrate judge, or other court official may remind the parties of the magistrate judge's availability, **but must also advise them that they are free to withhold consent without adverse substantive consequences**.

(3) Vacating a Referral. On its own for good cause—or when a party shows extraordinary circumstances—the district judge may vacate a referral to a magistrate judge under this rule.

3. The local rules state:

73.1 Assignment of Cases to Magistrate Judge

(a) Designated Jurisdiction. The judges of this district designate the magistrate judge to conduct all proceedings in any civil matter upon the consent of the parties.

(b) Methods of Assignment.

(1) Reassignment Following Request of Parties. Parties may consent to the reassignment of a case to a magistrate judge by filing a Notice, Consent, and Order of Reference form stating that the parties consent to the reassignment. This form should not be returned to the clerk of court unless all parties consent to the reassignment. **The clerk shall notify the parties in all cases that they may consent to have the magistrate judge conduct all proceedings in any civil matter.**

(2) Initial Assignment by the Clerk. The chief judge may authorize the clerk to randomly assign cases to the magistrate judge for all purposes, including trial, entry of final judgment, and all post-judgment proceedings.

(A) Notification of Initial Assignment. **The clerk shall inform the parties of the initial assignment by issuing a notice of assignment and consent form.**

(B) Consent. A case initially assigned to the magistrate judge pursuant to this subsection shall be reassigned to a district judge unless all parties consent to the assignment. A designated party shall file either a consent or declination of consent on a form provided by the clerk in the manner and within the time frame specified in the clerk's notice.

4. We would like to exercise our right to not consent/object to proceeding with a magistrate judge.
5. This case was initially assigned to Judge Nancy Toressen, who has already reviewed and ruled on two motions in this case. We prefer to proceed with the district court judge deciding this case.
6. The procedure outlined above raises concern about whether there was an oversight in not informing the plaintiffs that they had a choice. In other words, the following did not occur: **The clerk shall inform the parties of the initial assignment by issuing a notice of assignment and consent form.**
7. No consent form was issued to alert the plaintiffs that they had a choice of how to proceed.
8. At no time were the plaintiffs notified that submission of this form is required.
9. We are concerned that the above situation, in not being provided an opportunity to not consent, will cause us to forfeit our rights. Hence, in the abundance of caution, we are filing this notice.
10. We assume that our reasons for filing this notice are not required to be stated and that we will not be prejudiced by making filing.
11. Please take note of this notice.

Respectfully submitted,
/s/ Andre Bisasor

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